

Chapter 7 – Section 3: Economic Opportunities for Low and Very Low Income Persons

What is Section 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968 that requires that programs of direct financial assistance administered by the U.S. Department of Housing and Urban Development (HUD) provide, to the greatest extent feasible, opportunities for job training and employment to lower income residents in connection with projects in their neighborhoods. Further, to the greatest extent feasible, contracts in connection with these projects are to be awarded to local businesses. Section 3 is a tool for fostering local economic development, neighborhood economic improvement, and individual self-sufficiency.

Who Must Comply with Section 3 Requirements?

Section 3 applies to employment opportunities generated (jobs created) as a result of projects receiving Community Development Block Award (CDBG) or HOME Investment Partnership Program (HOME) funding through IHFA, whether those opportunities are generated by the award recipient, a subrecipient, or a contractor. The requirements of Section 3 apply to all projects or activities associated with CDBG or HOME funding, regardless of whether the Section 3 project is fully or partially funded with CDBG or HOME.

Section 3 applies to IHFA programs as follows:

1. Is the CDBG or HOME award more than \$200,000?
 - a. If no, Section 3 does not apply to your project.
 - b. If yes, Section 3 applies to the award recipient and its subrecipient (if applicable).
2. Are there any contracts or subcontracts for more than \$100,000? (*Individual contracts are not aggregated for the \$100,000 threshold*)
 - a. If no, Section 3 does not apply to any contractors or subcontractors.
 - b. If yes, the contractor or subcontractor with a contract exceeding \$100,000 is also subject to Section 3 requirements.

What Does Section 3 Require?

Award recipients, subrecipients, and contractors must make good faith efforts to:

1. Utilize Section 3 area residents as trainees and employees in connection with the project.
2. Award contracts to Section 3 business concerns for work in connection with the project.

The award recipient must keep records and submit reports to IHFA, documenting the good faith efforts taken and the results of these actions.

Definitions

Section 3 Area Resident – means:

- (1). A public housing resident;
- (2). An individual who resides in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended, and who is;
 - (i) a low-income person – any person with a gross household income less than 80% of the area median income (adjusted for household size) as established by HUD
 - (ii) a very low income person – any person with a gross household income less than 50% of the area median income (adjusted for household size) as established by HUD
- (3). A person seeking the training and employment preference provided by Section 3 bears the responsibility of providing the evidence (if requested) that the person is eligible for the preference.

Section 3 Business Concern - as defined:

- (1). That is 51% or more owned by Section 3 residents; or
- (2). Whose permanent, full-time employees include, persons, at least 30% of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- (3). That provides evidence of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “Section 3 business concern.”

Section 3 Service area – means the geographical area in which the persons benefiting from the Section 3 covered project reside. The service area shall not extend beyond the unit of general local government in which the Section 3 covered assistance is expended.

What is a Good Faith Effort?

Good faith effort means that a award recipient, subrecipient, or contractor must take concrete steps to expand resident training and employment opportunities, such as making residents aware of available training and employment positions, encouraging residents to participate in the job application process, and actually employing Section 3 area residents.

With respect to business participation, a good faith effort means identifying small businesses located within the boundaries of the Section 3-covered project area, making them aware of contracting opportunities, encouraging the participation of affected businesses in the procurement process, and actually awarding contracts to these Section 3 business concerns.

The law sets forth two criteria for good faith efforts:

1. greatest extent feasible to use area residents as trainees and employees and to award contracts to local businesses
2. consistent with existing Federal, State, and local law

Two additional requirements have been established through regulation:

1. affirmative actions

2. actions that can be documented

Examples of Good Faith Efforts

1. Identify the number and type of positions that are needed to undertake the program or project, and that are vacant.
2. Recruit Section 3 residents for all vacant positions through methods such as advertising through local media, PHAs, community organizations, employment development agencies and job training centers, and homeless shelters. Prominently display notices at the project site or other locations where they are likely to be seen by low- and very low-income residents.
3. Where feasible, use trainees on the project.
4. Hire Section 3 residents.
5. Keep records of any Section 3 residents hired and the positions for which they were hired.

Implementation

Section 3 must be implemented in a manner consistent with existing Federal, State, and local laws. Section 3 does not supersede these laws, nor do these laws cancel or override the Section 3 obligation.

- A. Employment - Section 3 is race neutral, directed at low-income and very-low income persons.
- B. Procurement - Despite the method of procurement used, the solicitation of bids/proposals and the final contract documents must include notice of Section 3 obligations. Preference is based on whether the contractor provides economic opportunities to lower income persons (preference requirements only apply to the award recipient).
- C. Contracting - Applies to the State's recipients as well as the recipients' contractors. Examples:
 1. Include notice of Section 3 requirements in bid solicitations.
 2. Target solicitations to small local businesses.
 3. Include Section 3 clause in contract documents.
 4. Develop a business outreach plan.
 5. Require bidders to indicate how they will comply with Section 3.
 6. Award contracts to businesses that provide economic opportunities to low- and very low-income persons.
- D. You must implement procedures during your award to track for the following:
 1. Total number of employees working on the job/housing award.
 2. Total number of employees working on the job/the-housing award that are Section 3.
 3. Total number of new hires/trainees hired to work on the job/housing award.
 4. Total number of new hires/trainees hired to work on the job/housing award that are Section 3.
 5. Number of hours worked on the job/the-housing award by all employees.
 6. Number of hours worked on the job/the-housing award by all Section 3 employees.

7. Number of hours worked on the job/the-housing award by Section 3 new hires/trainees.

Reporting Requirements

At the end of the award period, you will be required to report on Section 3 information to IHFA in your HOME/CDBG close-out documentation (see the actual form in Chapter 19 - Close-out Procedures). The following table is to assist you with including all the necessary requirements needed to complete the form.

The following information pertains to the award recipient, subrecipient and each applicable contractor or subcontractor working on the CDBG or HOME project:

- The efforts made to direct employment and other economic opportunities generated by the housing award.
- Total number of employees working on the job/award.
- Total number of employees working on the job/award that are Section 3.
- Total number of new hires/trainees hired to work on the job/award.
- Total number of new hires/trainees hired to work on the job/award that are Section 3.
- Number of hours worked on this job/this award by all employees.
- Number of hours worked on this job/this award by all Section 3 employees.
- Number of hours worked on this job/this award by Section 3 new hires/trainees.